

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

RUSSELL LEE VANCE : CIVIL ACTION
 :
 v. :
 :
 ALBERT EINSTEIN MEDICAL CENTER : NO. 10-2621

M E M O R A N D U M

O'NEILL, SR. J.

JUNE 4, 2010

Plaintiff, a prisoner, is seeking to bring a civil action without prepayment of fees, alleging that lack of proper medical care at the defendant hospital resulted in the death of his wife, Barbara A. Vance. He seeks damages.

Pursuant to 28 U.S.C. § 1915(g), a prisoner who on three or more prior occasions while incarcerated has filed an action in a federal court that was dismissed as frivolous, malicious, or for failure to state a claim upon which relief may be granted, must be denied in forma pauperis status unless he was in imminent danger of serious physical injury at the time that the complaint was filed. Abdul-Akbar v. McKelvie, 239 F.3d 307 (3d Cir.), cert. denied, 533 U.S. 953 (2001).

Plaintiff has, prior to the instant action, filed numerous civil actions in this Court which were dismissed as frivolous.¹ Furthermore, nothing in this complaint suggests that

1. The three civil actions most recently dismissed by this Court were: (1) Civil Action No. 96-0438, dismissed as frivolous on January 24, 1996; (2) Civil Action No. 94-0288, dismissed as frivolous on January 21, 1994; and (3) Civil Action No. 94-0255, dismissed as frivolous on January 24, 1994.

plaintiff was in imminent danger of serious physical injury at the time the complaint was filed.

The Court also notes that because the events which form the basis for this complaint allegedly occurred on June 22, 2007, the two year statute of limitations for bringing this action has expired. Wilson v. Garcia, 471 U.S. 261, 266-67 (1985).

Accordingly, plaintiff's motion to proceed in forma pauperis will be denied.

BY THE COURT:



THOMAS N. O'NEILL, JR., SR. J.